

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

GLENN WALLACE,

Petitioner,

v.

Civil Action No. 3:06-CV-90
(Judge Bailey)

LISA KIRKLAND, MR. LOUK,
and MR. FRASHURE,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. No. 13] dated November 1, 2007, to which neither party filed objections. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties' right to *de novo* review is waived.

See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979). Here, objections to Magistrate Judge Kaull's R & R were due within ten days of receiving the R & R [Doc. No. 13], pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The record reflects that service was accepted on November 7, 2007 [Doc. No. 14]. Accordingly, objections were due on or before November 17, 2007.

Accordingly, because no objections have been filed, this report and recommendation ("R & R") will be reviewed for clear error. Upon review of the R & R and the record, it is the

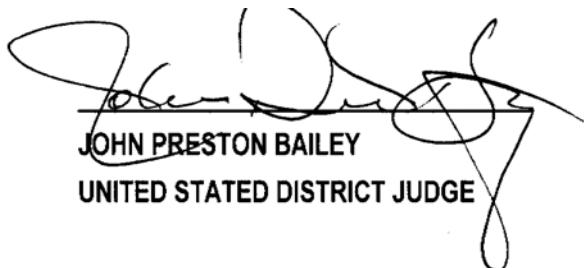
opinion of this Court that the Magistrate Judge's Report and Recommendation [Doc. No. 13] should be, and is, hereby **ORDERED ADOPTED**.

For reasons more fully stated in the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. No. 13], this Court **ORDERS** that petitioner's Complaint [Doc. No. 1] be **DISMISSED** and the case be **DISMISSED** from the docket.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to all counsel of record and the pro se petitioner.

DATED: November 26, 2007.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE